

REMARKS

A Replacement Sheet is submitted deleting reference numeral 1026 in FIG. 9. The specification has been amended to include the remaining references. No new matter has been included as these references are shown in the drawings and are self-explanatory. Numeral 1027 in FIG. 10 is an antenna as clearly set forth in the specification on page 19, second full paragraph, lines 4-6.

Response to Claim Rejections Under 35 U.S.C. §103

Claims 1, 4-6, 8-12, 15-17, 19-21, 24, 29, 31 and 33 have been rejected under 35 USC § 103(a) as being unpatentable over Robinson. All of these claims have either been cancelled or amended in order to distinguish over Robinson. Independent claims 1, 12 and 21 have been amended. Independent claim 29 has been cancelled. Dependent claims 4-6, 15-17, 31 and 33 have been cancelled. Dependent claims 8-11, 19-20 and 24 have either been amended or the claim upon which they are dependent has been amended. Therefore, the rejection based upon Robinson has been overcome.

Claim 1 has been extensively amended to include the elements of claims 2, 3, 4 and 6, all of which have been cancelled. It is believed that this claim is patentable. The Examiner has cited no prior art that would make it obvious to equip the tracking unit with a fuel cell that is interconnected with the battery for recharging the battery or supplying power directly to the electronic components of the tracking unit. These comments are also applicable to amended claim 12, which is a similar claim directed to the tracking unit per se and which has been amended to include the same limitations as in claim 1.

The Examiner has rejected claim 8 on grounds that it would be obvious to place the tracking unit on a locking bar of a container. While claim 8 has not been amended, the base claim (claim 1) has been amended to include the fuel cell and other limitations. It is believed that it would not have been obvious to place the tracking unit on a locking bar of a container. The Examiner cites Robinson (column 5, lines 15-35) to support his conclusion of obviousness. Robinson merely discusses mounting the transceiver in a warehouse. (Col. 5, lines 20-22) That does not in any way suggest mounting the receiver on a locking bar to enable the unit to report

that the container has been unlocked. Robinson does not disclose or suggest mounting a tracking unit to monitor any unlocking function as Applicant has.

The Examiner has rejected claim 9, which is also dependent upon amended claim 1, on the basis of Robinson (column 5, lines 15-35). Claim 9 requires that the tracking unit be attached to the locking bars of the shipping container by a clamp and to the shipping container in such a way so that the bar cannot be moved to unlock the doors. There is nothing at all in Robinson to suggest this type of locking arrangement. It is believed that attaching a tracking unit to a container like clamping onto one or both of the locking bars is clearly non-obvious. It is a unique solution to permit monitoring the locking and unlocking of the container.

Claim 10 is dependent upon claim 8 and requires that the tracking unit be attached by a special fastener which cannot be released without using a special tool. Again there is nothing in Robinson to suggest the use of this type of special fastener. An example of such a special fastener is shown in FIG. 11.

Claim 11 is allowable as being dependent upon an allowable claim (claim 1). Claim 11 is allowable in any event as no reference is cited suggesting that the antenna be mounted in the vertical position. This same comment is applicable to claim 19 as well.

The Examiner has rejected claim 20 stating that it would be obvious to put cushioning material between the back of the tracking unit and the door of the shipping container in view of a gasket to protect the paint of the shipping container. Claim 20 is dependent upon claim 12, which has been amended to include additional limitations as mentioned above. Claim 20 has been amended to specify that the tracking unit is also constructed at least partially of plastic. It is asserted that it is not at all obvious to use cushioning material and to construct the unit partially of plastic. The cushioning material is necessary to prevent damage to sensitive electronic parts in the tracking unit. Constructing the unit partly of plastic is necessary to permit good transmission to and from the antenna of the tracking unit.

Claim 21 has been amended to include limitations similar to amended claims 1 and 12. Claim 21 now requires the interconnected fuel cell and battery which has been shown to not be obvious. It also contains the limitations of the tracking unit being locked to the locking bar. It has also been shown above to not be obvious.

The Examiner has rejected claim 24 on the basis on Robinson which shows the transceiver having a battery backup. Applicant has developed a tracking unit where a fuel cell

powers all the components that are not powered by a battery. There is nothing in Robinson to suggest the use of a fuel cell and especially nothing to suggest the use of the fuel cell to directly power electronic components.

Claims 29, 31 and 33 have been cancelled.

Claim 2, 3, 13, 14, 23 and 30 have been rejected under 35 USC § 103(a) as being unpatentable over Robinson in view of Layson et al.. Claim 2, 3, 13, 14 and 30 have been cancelled and claim 23 has been amended. All of these claims provided for the tracking unit having detecting means for determining when it had been detached from the shipping container and/or tampered with and sending that information to the central server. This limitation will be discussed because it pertains to amended claim 23. This limitation is also contained in amended independent claims 1, 12 and new claim 43. Layson et al. discloses a body monitor attached to a person's leg. It is not logical to combine that patent with Robinson as Applicant's device is a tracker for containers which is far different from a body monitor. Body monitors and tracking apparatus for containers are entirely different arts.

Claims 7, 18, 25 and 26 have been rejected under 35 USC § 103(a) over Robinson in view of Janky et al. Claims 7 and 18 are dependent upon independent claims which have been amended. Claims 25 and 26 have been cancelled. Claim 7 of the instant application only requires the communication to the central server that the tracking unit is outside of a geo fence. Janky et al., on the other hand, provides for the disclosure of this information when the tracking unit is off course. Applicant's geo fencing allows more flexibility in the route without setting off a warning that the tracking unit is off course. Consequently, the combination of Janky et al. and Robinson will not result in the invention disclosed in claim 7. Of course claim 7 is dependent upon claim 1 which requires the presence of a fuel cell interconnected with the battery and which is not disclosed in Robinson.

Claim 22 was rejected but has been cancelled in this response. Claims 27 and 28 have been rejected but have been cancelled in this response. Claim 32 has been rejected and is cancelled by this response.

New claims 36-46 have been added to this application. New claim 37 is similar to old claim 32, which was cancelled. New claim 36 is dependent upon claim 21 and covers the feature of the tracking unit having the ability to shut down some of the components and waking them up under certain circumstances. New claim 37 is dependent upon claim 12 which includes

the interconnected fuel cell and battery. Old claim 32 was rejected on the basis of Robinson in view of Lemelson et al. New claim 37 is not obvious in light of Robinson and Lemelson combined. Lemelson discloses the programming of the remote unit 10 by the monitor control center 35 when the two units are geographically separated. Col. 3, lines 56-62. On the other hand, claim 37 requires that the tracking unit be connected to the computer, which is different than Lemelson's programming system.

Claim 38 is new and requires that the tracking unit be constructed of at least partially plastic and have the cushioning material between the tracking unit and the shipping container. The basis for the patentability of this claim is set forth above in connection with claim 20. Claim 39 and 40 are new and require that some of the electrical connections be an integral part of the housing of the tracking unit. Claims 41, 42, 44, 45 and 46 are new dependent claims relating to the communication platform. Independent claim 43 is new and claims the interconnected fuel cell and battery with the tracking unit communication platform.

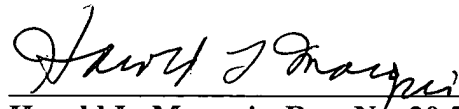
CONCLUSION

With the cancellation of a number of claims and the amendment of a number of others, it is believed that all of the claims in this application are allowable. It is especially important to note that the use of the fuel cell interconnected with the battery in a tracking unit is not disclosed or shown in any of the art cited.

An early and favorable response is respectfully requested. If the Examiner has any questions, he is invited to telephone the undersigned at the below number.

This is a full and timely response to the non-final Office Action mailed on September 20, 2005.

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**

A handwritten signature in cursive script, appearing to read "Harold L. Marquis", is written over a horizontal line.

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